

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 18, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CATHERYN FIELDS,

Plaintiff,

v.

COMMISSIONER ROBIN

MCCROSKEY, PRO TEM BARRETT

SCUDDER, PEND ORIELLE COUNTY,

and DUSTY ROCKFORD BUTLER SR.,

Defendants.

No. 2:25-CV-00201-SAB

**ORDER DENYING
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION; DISMISSING
COMPLAINT**

Before the Court is Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction, ECF No. 4. The motion was heard without oral argument. Plaintiff is representing herself in this matter. On June 10, Plaintiff was granted *in forma pauperis* status. ECF No. 6.

Plaintiff filed her Complaint in the U.S. District Court for the Eastern District of Washington on June 10, 2025. ECF No. 1. Plaintiff asserts Defendants unlawfully obstructed her access to the courts and chilled her ability to challenge an adverse judgment in violation of the First and Fourteenth Amendments. She maintains the judgment of \$2,145 that was entered against her in Pend Oreille County District Court was rendered through a procedurally defective process.

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1 Plaintiff asserts: (1) Defendant Butler failed to serve her with a valid notice; (2)
2 Defendant Pro Tem Judge Scudder erroneously found that both parties had validly
3 served one another; (3) Defendant Commissioner McCroskey, in appointing Pro
4 Tem Judge Scudder, circumventing judicial disqualification procedures; and (4)
5 because she lacked a valid service address for Mr. Butler, she was denied the
6 procedural tools necessary to appeal.

7 Plaintiff alleges that Defendant Commissioner McCroskey engaged in
8 improper judicial conduct and evidenced judicial bias.

9 Plaintiff asserts Defendant Dusty Butler committed the following:
10 (1) harassed her and came onto her property without invitation with the clear
11 purpose of asserting false claims of tenancy and intimidating Plaintiff; (2)
12 weaponizing the legal system to harass her and (3) engaged in a sustained
13 campaign of fraudulent misrepresentation and procedural abuse designed to
14 dispossess Plaintiff of her property, undermine her credibility in the court and
15 create the appearance of a legitimate tenancy where none ever existed.

16 She alleges Butler's actions were encouraged and facilitated by officials in
17 Pend Oreille County, including Commissioner McCroskey.

18 Plaintiff maintains she never entered into a rental agreement with Defendant
19 Butler, yet Mr. Butler declared a fraudulent tenancy through USPS address filings,
20 police statements, court pleadings, and fraudulent judicial authentication.

21 Plaintiff asserts she was subjected to a disparate treatment, hostile courtroom
22 conditions, and systematic judicial disadvantage by Commissioner McCroskey and
23 Judge Scudder, Pro Tem, during legal proceedings in Pend Oreille County District
24 and Superior Courts. She states the judges acted under color of state law and
25 engaged in intentional discrimination, unequal application of legal standards and
26 retaliation against Plaintiff for asserting her rights in violation of both federal and
27 state guarantees of equal protection and impartial justice.

28 Finally, she alleges Defendants violated her First Amendment rights in

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1 retaliation for her exercising her constitutional rights.

2 Plaintiff is seeking a declaratory judgment that her rights were violated,
3 compensatory and punitive damages for emotional and financial harm and
4 injunctive relief to prevent future constitutional violations.

5 **1. Plaintiff's Motion for Temporary Restraining Order / Preliminary** 6 **Injunction**

7 **Motion Standard**

8 In reviewing a Motion for Restraining Order / Preliminary Injunction, the
9 court must determine whether the movant has shown (1) they are likely to succeed
10 on the merits of their claim; (2) they are likely to suffer irreparable harm absent the
11 preliminary injunction; (3) the balance of equities tips in their favor and (4)
12 injunctive relief is in the public interest. *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th
13 Cir. 2023). The first factor “is a threshold inquiry and is the most important
14 factor.” *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020). Thus,
15 a “court need not consider the other factors” if a movant fails to show a likelihood
16 of success on the merits. *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856
17 (9th Cir. 2017).

18 **Legal Framework**

19 Section 1983 requires a claimant to prove that (1) a person acting under
20 color of state law (2) committed an act that deprived the claimant of some right,
21 privilege, or immunity protected by the Constitution or laws of the United States.
22 *Leer v. Murphy*, 844 F.2d 628, 632–33 (9th Cir. 1988). A person deprives another
23 “of a constitutional right, within the meaning of Section 1983, if he does an
24 affirmative act, participates in another's affirmative acts, or omits to perform an act
25 which he is legally required to do that causes the deprivation of which [the plaintiff
26 complains].” *Redman v. Cnty. of San Diego*, 942 F.2d 1435, 1439 (9th Cir. 1991)
27 (en banc) (brackets in the original), *abrogated in part on other grounds by Farmer*
28 *v. Brennan*, 511 U.S. 825 (1994).

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1 A complaint must set forth the specific facts upon which the plaintiff relies
2 in claiming the liability of each defendant. *Ivey v. Bd. of Regents*, 673 F.2d 266,
3 268 (9th Cir. 1982). Even a liberal interpretation of a civil rights complaint may
4 not supply essential elements of a claim that the plaintiff failed to plead. *Id.* To
5 establish liability pursuant to Section 1983, the plaintiff must set forth facts
6 demonstrating how each defendant caused or personally participated in causing a
7 deprivation of the plaintiff's protected rights. *Arnold v. Int'l Bus. Machines Corp.*,
8 637 F.2d 1350, 1355 (9th Cir. 1981); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir.
9 1989).

10 Analysis

11 Plaintiff cannot meet the threshold requirement of showing that she is likely
12 to succeed on the merits of her claims.

13 First, it is well-established that judges are absolutely immune from civil
14 liability for damages for their judicial acts. *See Mullis v. U.S. Bankr. Ct. for the*
15 *Dist. Of Nev.*, 828 F.2d 1385, 1388-94 (9th Cir. 1987). "A judge will not be
16 deprived of immunity because the action he took was in error, was done
17 maliciously, or was in excess of his authority; rather, he will be subject to liability
18 only when he has acted in the 'clear absence of all jurisdiction.'" *Stump v.*
19 *Sparkman*, 435 U.S. 349, 356-57 (1978) (quotation omitted).

20 Second, Plaintiff has named Pend Oreille County as a Defendant. A
21 government entity, like Pend Oreille County, cannot be held vicariously liable
22 for the actions of its employees under § 1983 unless a plaintiff can show that the
23 entity's policy, practice, or custom was the moving force behind the constitutional
24 violation. *Monell v. New York City Dep't of Social Servs.*, 436 U.S. 658, 691
25 (1978). "Liability for improper custom may not be predicated on isolated or
26 sporadic incidents; it must be founded upon practices of sufficient duration,
27 frequency and consistency that the conduct has become a traditional method of
28 carrying out policy." *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). Plaintiff

1 has not alleged sufficient facts to support a *Monell*-type claim.

2 Third, Plaintiff cannot bring a § 1983 action against Defendant Butler
3 because it is clear he is not a state actor. *See Brunette v. Humane Soc’y of Ventura*
4 *Cnty.*, 294 F.3d 1205, 1210 (9th Cir. 2002).

5 Because Plaintiff cannot show that she is likely to succeed on the merits of
6 her claims, her request for a temporary restraining order/ preliminary injunction is
7 denied.

8 **2. 28 U.S.C. § 1915 Review**

9 When an individual seeks to proceed in forma pauperis, the Court is
10 required to review the complaint and dismiss such complaint, or portions of the
11 complaint, if it is “frivolous, malicious or fails to state a claim upon which relief
12 may be granted; or . . . seeks monetary relief from a defendant who is immune
13 from such relief.” 28 U.S.C. § 1915(e)(2); *Wong v. Bell*, 642 F.2d 359, 361-2 (9th
14 Cir. 1981). A plaintiff’s claim is frivolous “when the facts alleged rise to the level
15 of the irrational or the wholly incredible, whether or not there are judicially
16 noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25,
17 32-33 (1992).

18 When reviewing a motion to dismiss for failure to state a claim upon which
19 relief can be granted, a court takes the factual allegations in the complaint as true
20 and construes them in the light most favorable to the plaintiff. *Balistreri v. Pacifica*
21 *Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). On the other hand, mere legal
22 conclusions, “are not entitled to the assumption of truth.” *Ashcroft v. Iqbal*, 556
23 U.S. 662, 679 (2009). “Dismissal can be based on the lack of a cognizable legal
24 theory or the absence of sufficient facts alleged under a cognizable legal theory.”
25 *Balistreri*, 901 F.2d at 699.

26 **Analysis**

27 Here, Plaintiff’s complaint is subject to dismissal under § 1915(e)(2).
28 Plaintiff is seeking monetary relief from defendants who are immune from such

1 relief. *See Mullis*, 828 F.2d at 1388. Additionally, Plaintiff cannot bring claims for
 2 constitutional violations against a non-state actor, *see Brunette*, 294 F.3d at 1210,
 3 and the Court declines to exercise supplemental jurisdiction over any state law
 4 claims being asserted against Mr. Butler. *See United Mine Workers of Am. v.*
 5 *Gibbs*, 383 U.S. 715, 726 (1966) (cautioning federal courts on exercising
 6 jurisdiction over state law claims if federal claims are dismissed). Plaintiff has not
 7 alleged sufficient facts to state a claim for *Monell* liability against the Pend Oreille
 8 County.

9 Finally, the Court's subject matter jurisdiction to hear this matter pursuant to
 10 the *Rooker-Feldman* doctrine¹ is questionable. Under the *Rooker-Feldman*
 11 doctrine, a federal court does not have subject matter jurisdiction to hear a direct
 12 appeal from the final judgment of a state court. *Noel v. Hall*, 341 F.3d 1148, 1154
 13 (9th Cir. 2003). As the Ninth Circuit explained:

14 In its routine application, the Rooker–Feldman doctrine is exceedingly
 15 easy. A party disappointed by a decision of a state court may seek
 16 reversal of that decision by appealing to a higher state court. A party
 17 disappointed by a decision of the highest state court in which a
 18 decision may be had may seek reversal of that decision by appealing to
 19 the United States Supreme Court. In neither case may the disappointed
 20 party appeal to a federal district court, even if a federal question is
 21 present or if there is diversity of citizenship between the parties.
 22 *Rooker–Feldman* becomes difficult—and, in practical reality, only
 comes into play as a contested issue—when a disappointed party seeks
 to take not a formal direct appeal, but rather its de facto equivalent, to a
 federal district court.

23 *Id.*

24 In reviewing the Complaint, it appears that Plaintiff is attempting to appeal a
 25 decision by the lower state courts. This Court does not have jurisdiction to hear

26 ¹ The *Rooker–Feldman* doctrine takes its name from *Rooker v. Fidelity Trust Co.*,
 27 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460
 28 U.S. 462 (1983).

1 such an appeal. If Plaintiff is unhappy with the decision of the lower state courts,
2 she can appeal those decisions to the Washington state appellate courts, or the
3 United States Supreme Court.

4 **3. Leave to Amend**

5 Under Fed. R. Civ. P. 15(a), a court should freely give leave to amend when
6 justice so requires, either with the court's leave or as a matter of course. Unless it
7 is absolutely clear that amendment would be futile, a *pro se* litigant must be given
8 the opportunity to amend his complaint to correct any deficiencies. *See Cervantes*
9 *v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011).

10 Although it appears that an amendment would be futile, given that Plaintiff
11 seeks to sue individuals who are immune from suit, the Court will grant Plaintiff
12 leave to file an amended complaint to cure the deficiencies set forth above.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 1. Plaintiff's Emergency Motion for Temporary Restraining Order and
15 Preliminary Injunction, ECF No. 4, is **DENIED**.

16 2. Pursuant to 28 U.S.C. § 1915(e)(2), Plaintiff's Complaint, ECF No. 1,
17 is **DISMISSED without prejudice**.

18 3. Plaintiff is granted leave to file a Second Amended Complaint **within**
19 **thirty (30) days from the date of this Order**. The Second Amended Complaint
20 shall consist of a short and plain statement showing she is entitled to relief.

21 Plaintiff shall allege with specificity the following:

22 (1) the names of the persons who caused or personally participated in
23 causing the alleged deprivation of her constitutional rights,

24 (2) the dates on which the conduct of each Defendant allegedly took place,
25 and

26 (3) the specific conduct or action that Plaintiff alleges is unconstitutional.

27 The Second Amended Complaint will operate as a complete substitute for
28 (rather than a mere supplement to) the present complaint.

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1 **Failure to file a timely Second Amended Complaint will result in**
2 **dismissal of this action.**

3 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
4 and provide copies to *pro se* Plaintiff.

5 **DATED** this 18th day of June 2025.



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10 Stan Bastian
11 Chief United States District Judge
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